

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICK SHAWN,

Case No.: 2:22-cv-02157-APG-DJA

Petitioner

Order Dismissing Habeas Petition with Prejudice and Closing Case

JEROMY BEAN, et al.,

Respondents

Rick Shawn has submitted a *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254. (ECF No. 1-1.) I have reviewed his petition, and it is second and successive. Under 28 U.S.C. § 2244, a second or successive application . . . is filed in the district court, the applicant shall file a motion for leave to file a second or successive application in the appropriate court of appeals for an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(e)(3)(B). Where a petition has been dismissed with prejudice as procedurally or because of procedural default, the dismissal constitutes a disposition on the merits and bars a subsequent petition second or successive for purposes of 28 U.S.C. § 2244.

McNabb v. Yates, 576 F.3d 1028, 1029-1030 (9th Cir. 2009); *Henderson v. Lampert*, 396 F.3d 1049, 1053 (9th Cir. 2005).

17 Shawn indicates on the face of his petition that he seeks to challenge his convictions on
18 more than 40 counts in his 2011 Clark County, Nevada case. (ECF No. 1-1 at 1-2.) Shawn is
19 serving numerous life sentences. *Id.* He also indicates that he previously challenged this
20 judgment of conviction in this court. In February 2018, this court dismissed the petition as
21 untimely, and judgment was entered. 2:14-cv-00738-JAD-PAL. This petition, therefore, is a
22 second or successive habeas corpus petition. *Henderson*, 396 F.3d at 1053. Shawn was required
23 to obtain authorization from the United States Court of Appeals for the Ninth Circuit before he

1 could proceed. 28 U.S.C. § 2244(b)(3). He has not indicated that he has received such
2 authorization from the court of appeals.

3 Thus, I dismiss this petition with prejudice. Reasonable jurists would not find this
4 conclusion to be debatable or wrong, and I decline to issue a certificate of appealability.

5 I THEREFORE ORDER that the petition for writ of habeas corpus is **DISMISSED with**
6 **prejudice.**

7 I FURTHER ORDER that a certificate of appealability is DENIED.

8 I FURTHER ORDER that the Clerk of the Court:

- 9 • **FILE** the petition [ECF No. 1-1].
- 10 • **DIRECT INFORMAL ELECTRONIC SERVICE** upon respondents under
11 Rule 4 of the Rules Governing Section 2254 Cases by adding Nevada Attorney
12 General Aaron D. Ford as counsel for respondents and sending a notice of
13 electronic filing to his office for the petition and this order. No response is
14 required from respondents other than to respond to any orders of a reviewing
15 court.
- 16 • **ENTER FINAL JUDGMENT** dismissing this action and **CLOSE THIS**
17 **CASE.**

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19 
20 U.S. District Judge Andrew P. Gordon
21 January 19, 2023
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